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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,897	01/17/2001	John J. Harrington	ATX-007CP4DV15CN	3522
7590	10/19/2004		EXAMINER	
Cynthia L. Kanik LAHIVE & COCKFIELD LLP 28 State Street Boston, MA 02109			SHUKLA, RAM R	
			ART UNIT	PAPER NUMBER
			1632	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,897

Applicant(s)

HARRINGTON ET AL.

Examiner

Ram R. Shukla

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 83-88 and 92-97 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 83-88 and 92-97 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119


- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> |

Continuation of Attachment(s) 6). Other: Notice of Sequence non-compliance .



RAM R. SHUKLA, PH.D.
PRIMARY EXAMINER

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Examiner's Comments

1. Applicants' response and amendment filed 07-21-04 have been entered.
2. Claims 78-82 and 89-91 have been cancelled.
3. Claims 83, 85, 88 and 92-97 have been amended.
4. Applicants' request for rejoinder of claims 83-88 and 95 is acknowledged and these claims have been rejoined with the invention of group III. Since the amended withdrawn claims (83-88 and 95) are drawn to a method of producing a protein from an endogenous gene using the eukaryotic cells of the elected invention of group III, the restriction of these claims is withdrawn and the claims are rejoined with the elected invention. Accordingly, claims 83-88 and 92-97 are instantly pending and allowed.

5. Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

Specifically the application fails to comply with CFR 1.821(d), which states:

(d) Where the description or claims of a patent application discuss a sequence that is set forth in the "Sequence Listing" in accordance with paragraph © of this section, reference must be made to the sequence by use of the sequence identifier, preceded by "SEQ ID NO: " in the text of the description or claims, even if the sequence is also embedded in the text of the description or claims of the patent application.

The specification discloses nucleotide sequences in figures 14-16, 29-35, and 37. However, these sequences are not identified by sequence

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identifiers. It is noted that the sequences of figures 14-16 have been assigned SEQ ID NO, however, these SEQ ID Nos are not listed in the sequence listing.

For compliance with sequence rules, it is necessary to include the sequence in the "Sequence Listing" and identify them with SEQ ID NO. In general, any sequence that is disclosed and/or claimed as a sequence, i.e., as a string of particular bases or amino acids, and that otherwise meets the criteria of 37 CFR 1.821(a), must be set forth in the "Sequence Listing." (see MPEP 2422.03).

It is noted that in the communication filed 6/19/02 applicants requested transfer of the sequence listing from 09/276,820. However, at the time of the request, the sequence listing in 09/276,820 itself was not complete and correct. Therefore, to keep the records clear, applicants are required to file both a paper copy and a CRF.

For the response to this office action to be complete, Applicants are required to comply with the Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

Abstract

6. The abstract of the disclosure is objected to because the abstract is too long. Correction is required. See MPEP § 608.01(b).

Drawings

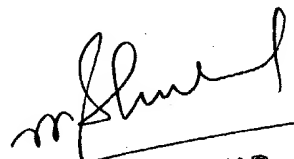
7. According to the first sentence of the specification this application is a continuation of 09/515,124 and divisional of 09/276,820. However, the number of figures in the parent applications and the instant application do not match. Instant application has only 4 figures filed on 12/20/01. It is noted that no drawings were filed on 1/17/01 at the filing of the application. Appropriate correction is required.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ram R. Shukla whose telephone number is (571) 272-0735 . The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (571) 272-0804. The fax phone number for TC 1600 is (703) 872-9306. Any inquiry of a general nature, formal matters or relating to the status of this application or proceeding should be directed to the Dianiece Jacobs whose telephone number is (571) 272-0532.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ram R. Shukla, Ph.D.
Primary Examiner
Art Unit 1632


**RAM R. SHUKLA, PH.D.
PRIMARY EXAMINER**